

**NATIONAL ENERGY RETAIL LAW**

**SECTION 308**

**INFRINGEMENT NOTICE ISSUED TO**

**ICON DISTRIBUTION INVESTMENTS LIMITED AND JEMENA NETWORKS  
(ACT) PTY LTD TRADING AS EVOENERGY (ABN: 76 670 568 688)**

**TO: Icon Distribution Investments Limited and Jemena Networks (ACT) Pty Ltd  
trading as 'Evoenergy' (ABN: 76 670 568 688)**

**Level 6 ActewAGL House  
40 Bunda Street  
Canberra ACT 2600**

**Infringement Notice No.: AER18-2018**

1. The Australian Energy Regulator (AER):
  - a. has reason to believe that Icon Distribution Investments Limited (ACN: 073 025 224) and Jemena Networks (ACT) Pty Ltd (ACN: 008 552 663) trading as Evoenergy (ABN: 76 670 568 688) (**Evoenergy**), a *distributor* within the meaning of the *National Energy Retail Law (ACT) (Retail Law)*, has breached rule 125(2)(f) of the *National Energy Retail Rules (Retail Rules)*, in the manner set out in Schedule 1 to this Infringement Notice (**the alleged breach**); and
  - b. has decided to serve this Infringement Notice on Evoenergy under section 277 of the *National Gas (ACT) Law* being the Schedule to the *National Gas (South Australia) Act 2008 (National Gas Law)* as applied by section 308 of the Retail Law.
2. Rule 125(2) of the Retail Rules is a civil penalty provision within the meaning of the Retail Law.
3. The infringement penalty is \$20,000.

**WHAT CAN EVOENERGY DO IN RESPONSE TO THIS  
INFRINGEMENT NOTICE?**

4. Evoenergy can choose whether or not to comply with this Infringement Notice. If Evoenergy chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Evoenergy is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If Evoenergy chooses to comply with this Infringement Notice, it must pay the infringement penalty by **8 January 2019**, being not less than 28 days from the date of service of this Infringement Notice, beginning on the day after the day on which this Infringement Notice is served (**the compliance period**).

6. To ensure payment is made in accordance with this Infringement Notice, payment must be received on or before **8 January 2019**.
7. If Evoenergy pays the infringement penalty within the compliance period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.

#### **HOW TO PAY AN INFRINGEMENT NOTICE**

8. Evoenergy may pay the \$20,000 infringement penalty in two ways:
  - a. by cheque made out to the "ACCC Official Administered Account",\* enclosing a copy of this Infringement Notice to:

Australian Energy Regulator  
GPO Box 520  
MELBOURNE VIC 3001

you should allow at least 5 business days for payment to be received

or

- b. by electronic funds transfer to the following account:\*

Account name: ACCC Official Administered Account  
BSB: 032-730  
Account: 146550  
Description: AER18-2018

you should allow at least 2 business days for payment to be received.

- \* The Australian Competition and Consumer Commission handles the receipt of infringement penalty payments for the AER on behalf of the Commonwealth of Australia. All payments received are paid into the Consolidated Revenue Fund.

9. Please allow sufficient time for your payment to be received within the compliance period.
10. Evoenergy will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: 29 November 2018

  
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Jim Cox  
Board Member  
Australian Energy Regulator

## SCHEDULE 1

### **MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 125(2)(f) OF THE NATIONAL ENERGY RETAIL RULES**

1. Evoenergy is a 'distributor' within the meaning of section 2 of the Retail Law.
2. On 8 May 2015, the customer's retailer advised Evoenergy that a person residing at the premises at [REDACTED] (the premises), required life support equipment.
3. By reason of subrule 3(b) of Section 2 of Part 9 of Schedule 3 of the Retail Rules, a registered life support customer's retailer is taken to have advised the distributor for the purposes of rule 125(1)(a) that a person residing at the customer's premises requires life support equipment.
4. Further, by reason of rule 125(1) of the Retail Rules, Evoenergy was required to comply with rule 125(2) of the Retail Rules in relation to the premises.
5. Pursuant to rule 125(2)(f) of the Retail Rules, Evoenergy was required to give the customer at the premises at least 4 business days' written notice of any distributor planned interruptions to the supply at the premises.
6. At or about 8.28am on 21 February 2018, Evoenergy conducted a distributor planned interruption which interrupted the supply of electricity to the premises.
7. Evoenergy did not give the customer at the premises at least 4 business days' written notice of a distributor planned interruption to supply at the premises.